

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

KEITH WATERMAN,
Plaintiff,

v.

ORDER
13-CV-611A

NYS OFFICE OF TEMP & DISABILITY,

Defendant.

The above-referenced case was referred to Magistrate Judge H. Kenneth Schroeder, Jr., pursuant to 28 U.S.C. § 636(b)(1)(B). On November 22, 2013, Magistrate Judge Schroeder filed a Report and Recommendation, recommending that defendant's motion to dismiss for failure to effect proper service be granted, but that, in accordance with plaintiff's request for additional time to effect proper service, the Court should exercise its discretion pursuant to Rule 4(m) of the Federal Rules of Civil Procedure to afford plaintiff an additional 120 days to effect proper service.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Schroeder's Report and Recommendation, Dkt. No. 12, defendant's motion to dismiss for failure to effect proper service is granted, but that, in accordance with plaintiff's request for additional time to effect proper service, the

Court exercises its discretion pursuant to Rule 4(m) of the Federal Rules of Civil Procedure and will afford plaintiff an additional 120 days to effect proper service.

The case is referred back to Magistrate Judge Schroeder for further proceedings.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: December 11, 2013